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CLEARINGHOUSE RULE 96-087

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The notation “CAS no.”, used in s. NR 400.02 (43c), is undefined. A definition should be provided.

b. The parenthetical information included in the treatment clause of SECTION 3 should be omitted. However, it may be helpful to include a note indicating that Clearinghouse Rule 95-192 renumbered s. NR 407.02 (22) to be s. NR 407.02 (6).

c. In the rule-making order, s. NR 407.03 (1) (i) 1. refers to the “air to vapor interface,” while the current rule refers to the “air to solvent interface.” If the department wishes to substitute the word “vapor” for the word “solvent,” it must do this by striking through the current “solvent” and underscoring the new “vapor.”

d. The terms “BCC” and “BVI,” used as column headings in Appendix T to ch. NR 460, are undefined. Definitions for these terms should be provided or, alternatively, the terms should be spelled out in full.

e. The rule provisions creating standards for halogenated solvent cleaning are too long to be treated in a single section. In this draft, s. NR 468.40 is 37 pages long, which is unwieldy. In addition, it requires using an unnecessary number of subdivisions of the rule. For example, although subdivision paragraphs are discouraged, they are used extensively throughout s. NR 468.40 and in some instances, are even subdivided themselves [e.g., s. NR 460.40 (4) (e) 2. b. 1) and 2)]. [See s. 1.03, Manual.] This section should be made a subchapter of ch. NR 468 and each subsection should be made a separate section.

f. The provision contained in s. NR 468.40 (1) (b) properly belongs in ch. NR 460, since that is the chapter to which it applies. If the department feels that readers of ch. NR 468 should be made aware of this provision, this could be done through a note, as is quite effectively done in numerous other instances in this rule.

g. In s. NR 468.40 (2) (gm), the phrase “i.e., halogenated HAP solvent added to the machine,” should be omitted, since that is what the term “consumed” means, by the definition of the term “consumption.”

h. In s. NR 468.40 (2) (v), the second sentence belongs in a note to the rule.

i. Section NR 468.40 (3) (f) is unnecessary, because sub. (9a) clearly indicates which paragraphs apply to what types of machines. This paragraph and other similar provisions that describe the applicability of sub. (9) should be omitted.

j. The second sentence of s. NR 468.40 (6) (b) should be omitted, since it merely repeats the definition of the last term in the preceding sentence.

k. In s. NR 468.40 (6) (c), it appears that the word “where” following “(Equation 4)” should appear following “(Equation 5).”

l. A definition should be provided for the term “colorimetric detector tube,” used in s. NR 468.40 (7) (e) (intro.).

m. Section NR 468.40 (7) (g) provides that alternative monitoring procedures may be approved by the department. Any alternative of general applicability should be promulgated as a rule under ch. 227, Stats. Further, what standards will be used to approve proposed alternative monitoring procedures? [For example, see the Note to the entire section, which also is substantive in nature and should be included in the text of the rule.]

n. In s. NR 468.40 (9), the material in pars. (e) 3. and (f) 4. are not actually items that are required to be included in a report. Consequently, the authority afforded in these provisions should be placed elsewhere in the rule.

o. It appears that additional amendments should be made to s. NR 484.04, to add references to the test methods incorporated by reference in s. NR 468.40 (6) (a) and (c) 2. a.

4. Adequacy of References to Related Statutes, Rules and Forms

a. The notation “(see above),” in the entry for s. NR 460.08 (2) (c) in Appendix T to ch. NR 460 should be replaced by a specific reference, so that the reader knows which of the preceding entries is referred to.

b. In s. NR 468.40 (6) (a), the cross-reference should read: “(4) (b) 1. b. or (2) (b) or (c) 1. b. or 2. b.” The entire rule should be reviewed for this cross-reference.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It appears that s. NR 407.04 (4) would be clearer if it were broken into two sentences. The first sentence would end with the phrase “obtain a construction permit under ch. NR 406.” The second sentence would begin: “If construction on the facility commenced prior to July 1, 1995, the owner or operator shall....”

b. The commas in the fourth and fifth lines of s. NR 407.04 (5) should be omitted.

c. A better explanation of the table in Appendix T to ch. NR 406 should be provided. It appears that the question that is answered in the “BCC” and “BVI” columns is the following: “Do the requirements or provisions of the section in the ‘reference’ column apply to facilities to which s. NR 468.40 applies?”. However, this is not made clear by the rule.

d. Section NR 468.40 (1) (a) states that the chapter applies to certain machines, while pars. (c) and (d) state that the provisions apply to the owners and operators of these machines. Presumably, par. (a) should refer to owners and operators, also. Finally, in par. (d), it appears that it is not the machine that commences construction or reconstruction.

e. Section NR 468.40 (4) (d) 10. requires that operators of certain machines complete and pass a specified test, but fails to indicate what constitutes a passing score on the test. This should be clarified.

f. In the Note to s. NR 468.40 (4) (e) 2. g. 4), the word “enables” should be replaced by the word “enable.”

g. In s. NR 468.40 (7) (e), should the phrase “at least” or the phrase “no more than” be inserted before the phrase “two stack or duct diameters”?